TITLE 19. PUBLIC SAFETY
DIVISION 2. OFFICE OF EMERGENCY SERVICES
CHAPTER 4.5. CALIFORNIA ACCIDENTAL RELEASE PREVENTION (CALARP) PROGRAM DETAILED ANALYSIS
ARTICLE 1. GENERAL

§ 2735.1. Purpose.

The California Accidental Release Prevention (CalARP) program includes the federal Accidental Release Prevention program [Title 40, Code of Federal Regulations (CFR) Part 68] with certain additions specific to the state pursuant to Article 2, Chapter 6.95, of the Health and Safety Code (HSC). The purpose of the CalARP program is to prevent the accidental releases of regulated substances. The list of regulated substances are in Section 2770.5 of this chapter.

Stationary sources with more than a threshold quantity of a regulated substance shall be evaluated to determine the potential for and impacts of accidental releases from that covered process. Under conditions specified by this chapter, the owner or operator of a stationary source may be required to develop and submit a risk management plan (RMP). The RMP components and submission requirements are identified in Article 3 of this chapter.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25531.2, 25533, 25535.1 and 25543, Health and Safety Code.

§ 2735.2. Scope.

This chapter sets forth:

(a) the list of regulated substances and thresholds,

(b) the requirements for owners and operators of stationary sources concerning the prevention of accidental releases,

(c) the accidental release prevention programs approved under Section 112(r) of the federal Clean Air Act (CAA) Amendments of 1990 and mandated under the CalARP program, and

(d) how the CalARP program relates to the state's Unified Program.

The list of substances, threshold quantities, and accident prevention regulations promulgated under this chapter do not in any way limit the general duty provisions under Section 112(r)(1) of the federal CAA.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25531, 25532 and 25533, Health and Safety Code; and Section 68.1, Part 68, Title 40, Code of Federal Regulations.

§ 2735.3. Definitions.

For the purposes of this chapter only:
(a) "AA" means Administering Agency, the local agency responsible to implement the CalARP program. In most instances, the Certified Unified Program Agency (CUPA) has this responsibility. When there is no CUPA, the implementing agency is the agency designated by the Secretary for Environmental

Protection pursuant to Section 25404.3(f) of HSC or the agency designated by OES pursuant to 25533(f) of HSC.

(b) "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(c) "Administrative controls" mean written procedural mechanisms used for hazard control.

(d) "Administrator" means the administrator of the USEPA.

(e) "AIChE/CCPS" means the American Institute of Chemical Engineers/Center for Chemical Process Safety.

(f) "API" means the American Petroleum Institute.

(g) "Article" means a manufactured item, as defined under Section 5189 of Title 8 of the California Code of Regulations (CCR), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

(h) "ASME" means the American Society of Mechanical Engineers.

(i) "CAS" means the Chemical Abstracts Service.

(j) "CFR" means the Code of Federal Regulations

(k) "Catastrophic release" means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents an imminent and substantial endangerment to public health and the environment.

(l) "Classified information," as defined in the Classified Information Procedures Act, Appendix 3 of Section 1(a) of Title 18 of the United States Code, means "any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security."

(m) "Condensate" means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

(n) "Covered process" means a process that has a regulated substance present in more than a threshold quantity as determined under Section 2770.2 of this chapter.

(o) "Crude oil" means any naturally occurring, unrefined petroleum liquid.

(p) "DOT" means the United States Department of Transportation.

(q) "Environmental receptor" means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in Section 2750.2(a), as a result of an accidental release and that can be identified on local United States Geological Survey maps.

§ 2735.3. Definitions. (Continued)

(r) "Field gas" means gas extracted from a production well before the gas enters a natural gas processing plant.

(s) "Hot work" means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

(t) "Injury" means any effect on a human that results either from direct exposure to toxic concentrations; radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

(u) "Interested persons" means those residents, workers, students and others who would be potentially affected by an accidental or catastrophic release.

(v) "Major change" means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

(w) "Mechanical integrity" means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

(x) "Medical treatment" means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.

(y) "Mitigation or mitigation system" means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.

(z) "Modified stationary source" means a stationary source which has undergone an addition or change which qualifies as a "major change" as defined in (v) of this section.

(aa) "NAICS" means the North American Industry Classification System.

(bb) "NFPA" means the National Fire Protection Association.

(cc) "Natural gas processing plant" (gas plant) means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

(dd) "OES" means the Governor's Office of Emergency Services.

(ee) "Offsite" means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

§ 2735.3. Definitions. (Continued)

(ff) "OSHA" means the Occupational Safety and Health Administration.

(gg) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(hh) "Part 68" means Part 68 of Subpart A of Subchapter C of Chapter I of Title 40 of CFR.

(ii) "Petroleum refining process unit" means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: (1) producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; (2) separating petroleum; or (3) separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

(jj) "Population" means the public.

(kk) "Process" means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

(ll) "Produced water" means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

(mm) "Public" means any person except employees or contractors at the stationary source.

(nn) "Public receptor" means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

(oo) "Qualified person" means a person who is qualified to attest, at a minimum to: (1) the validity and appropriateness of the process hazard analyses (PHA) performed pursuant to Section 2760.2; (2) the completeness of a risk management plan; and (3) the relationship between the corrective steps taken by the owner or operator following the PHAs and those hazards which were identified in the analyses.

(pp) "Qualified position" means a person occupying a position who is qualified to attest, at a minimum to: (1) the validity and appropriateness of the PHA performed pursuant to Section 2760.2; (2) the completeness of a risk management plan; and (3) the relationship between the corrective steps taken by the owner or operator following the PHAs and those hazards which were identified in the analyses.

(qq) "Regulated substance" means any substance, unless otherwise indicated, listed in Section 2770.5 of this chapter.

(rr) "Replacement in kind" means a replacement that satisfies the design specifications.

§ 2735.3. Definitions. (Continued)

(ss) Retail facility means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(tt) "RMP" means the risk management plan as described by the component elements identified in Article 3 of this chapter.

(uu) "Stationary source" means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this chapter. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulations under Part 192, 193, or 195 of Title 49 of CFR, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under Section 60105 of Title 49 of USC. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

(vv) "Threshold quantity" means the quantity specified for a regulated substance pursuant to Section 2770.5 and determined to be present at a stationary source as specified in Section 2770.2 of this chapter.

(ww) "Trade secret" means trade secrets as defined in Section 6254.7 of Subdivision (d) of the Government Code and Section 1060 of the Evidence Code and includes information submitted to an administering agency which has been designated by the stationary source as trade secret and which shall not be released by the AA except to authorized officers and employees of other governmental agencies, and only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety. Trade secret information is to be handled pursuant to Section 25538 of HSC.

(xx) "Typical meteorological conditions" means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

(yy) "Vessel" means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

(zz) "Worst-case release" means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 2750.2(a) of this chapter.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25501 and 25532, Health and Safety Code; and Section 68.3, Part 68, Title 40, Code of Federal Regulations.

§ 2735.4. Applicability.

(a) The requirements of this chapter apply to an owner or operator of a stationary source with more than a threshold quantity of a regulated substance in a process. Regulated substances are listed in three separate tables in Section 2770.5 of this chapter. An owner or operator of a stationary source shall comply with one of the following:

(1) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Table 1 or 2 of Section 2770.5, the owner or operator shall comply with the provisions of this chapter pursuant to the time frames identified in Section 2745.1(b);

(2) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Table 3 of Section 2770.5, and the AA makes a determination pursuant to Section 25534 of HSC that an RMP is required, the owner or operator shall comply with the appropriate provisions of this chapter pursuant to the time frame identified in Section 2745.1(d) or (e); or,

(3) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Tables 1 or 2 and Table 3 of Section 2770.5, the owner or operator shall comply with the provision of this chapter pursuant to the time frames identified in Section 2745.1(b).

(b) The CalARP program defines three program levels with different levels of requirements depending upon the complexity, accident history, and potential impact of releases of regulated substances.

(c) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 2735.5(d) if it meets all of the following requirements:

(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance has led to any of the following offsite consequences:

(A) Death;
(B) Injury; or,
(C) Response or restoration activities for an exposure of an environmental receptor;

(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Article 4 of Section 2750.3 is less than the distance to any public receptor, as defined in Section 2735.3 (nn) and Section 2750.5; and,

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(d) Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of either section (c) or (e).

(e) Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of section (c), and if any of the following conditions apply:

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532.

§ 2735.4. Applicability. (Continued)

(2) The process is subject to the federal or state OSHA process safety management standards of Section 1910.119 of Title 29 of CFR or Section 5189 of Title 8 of CCR.

(3) The AA determines that the accident risk posed by the regulated substance in a process above the threshold quantity as listed in Table 3 of Section 2770.5, because of the nature and quantity of the regulated substance involved, requires the additional safety measures afforded by Program 3 requirements, pursuant to section 25534 of HSC.

(f) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 2745.10.

(g) The provisions of this chapter shall not apply to an Outer Continental Shelf ("OCS") source, as defined in Section 55.2 of Title 40 of CFR.

Note: Authority cited: Sections 25531, 25534.05, Health and Safety Code. Reference: Sections 25534, 25535 (d) and 25536, Health and Safety Code; and Section 68.10, Part 68, Title 40, Code of Federal Regulations.

§ 2735.5. General Requirements.

(a) Coordination. The owner or operator of a stationary source shall closely coordinate with the AA to implement the requirements of this chapter and to determine the appropriate level of documentation required for an RMP to comply with Sections 2745.3 through 2745.9 of this chapter. This requirement shall not preclude public access to RMP information. Classified information need not be included in the RMP but shall be made available to the AA to the extent allowable by law. Trade secrets are protected pursuant to Section 25538 of HSC.

(b) General requirements for RMPs.

(1) The owner or operator of a stationary source that is subject to this chapter, pursuant to Section 2735.4, shall submit an RMP which includes all requirements described in Section 2745.3 through Section 2745.9.

(2) The RMP shall include a registration that reflects all covered processes.

(c) Model RMPs may be used by stationary sources if accepted for use by AAs, in consultation with OES. Model RMPs for a process that has in excess of a threshold quantity of a regulated substance listed in Table 1 or 2 of Section 2770.5 must also be recognized by USEPA. OES may limit the use, application, or scope of these models.

(d) Program 1 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 2735.4(c) shall:

(1) Analyze the worst-case release scenario for the process(es), as provided in Section 2750.3; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 2750.2(a); and submit in the RMP the worst-case release scenario as provided in Section 2745.4;

(2) Complete the five-year accident history for the process as provided in Section 2750.9 of this chapter and submit it in the RMP as provided in Section 2745.5;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and,

(4) Certify in the RMP the following: "Based on the criteria in Section 2735.4 of Title 19 of CCR, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program Section 2735.4 (c)(1). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. (Signature, title, date signed)."

(e) Program 2 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process subject to Program 2, as provided in Section 2735.4(d), shall:

(1) Develop and implement a management system as provided in Section 2735.6;

(2) Conduct a hazard assessment as provided in Sections 2750.1 through 2750.9;

(3) Implement the Program 2 prevention steps provided in Sections 2755.1 through 2755.7 or implement the Program 3 prevention steps provided Sections 2760.1 through 2760.12;

(4) Develop and implement an emergency response program as provided in Sections 2765.1 to 2765.2; and

(5) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 2745.6.

(f) Program 3 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 2735.4(e) shall:

(1) Develop and implement a management system as provided in Section 2735.6;

(2) Conduct a hazard assessment as provided in Sections 2750.1 through 2750.9;

(3) Implement the prevention requirements of Sections 2760.1 through 2760.12;

(4) Develop and implement an emergency response program as provided in Sections 2765.1 to 2765.2; and,

(5) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 2745.7.

§ 2735.5. General Requirements. (Continued)

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25533, 25534, 25534.05 and 25538, Health and Safety Code; and Section 68.12, Part 68, Title 40, Code of Federal Regulations.

§ 2735.6. CalARP Program Management System.

(a) The owner or operator of a stationary source with processes subject to Program 2 or Program 3 shall develop a management system to oversee the implementation of the risk management program elements.

(b) The owner or operator shall assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.

(c) When responsibility for implementing individual requirements of this chapter is assigned to persons other than the person identified under section (b), the names or positions of these people shall be documented and the lines of authority defined through an organization chart or similar document.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25534.1, 25535.1, 25535 and 25536, Health and Safety Code; and Section 68.15, Part 68, Title 40, Code of Federal Regulations.

§ 2735.7. Emergency Information Access

Upon request of a state or local emergency response agency the AA shall provide immediate access to all components of the CalARP program. If any of the components of the CalARP Program are designated as "trade secret" as defined in Section 6254.7(d) of the Government Code and Section 1060 of the Evidence Code, the emergency response agency or agencies shall be given notice that the information released shall be used only in connection with the official duties of the agency or agencies and shall not otherwise be released.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25538(c) and 25539, Health and Safety Code.

ARTICLE 2. REGISTRATION

§ 2740.1. Registration.

(a) If an RMP is required under Section 2735.4(a)(1) and (a)(3), the owner or operator of the stationary source shall complete the registration information required in (d) of this section and submit it with the RMP to USEPA, with a copy provided to the AA.

(b) If an RMP is required under Section 2735.4(a)(2), the owner or operator of the stationary source shall complete the registration information required in (d) of this section and submit it with the RMP to the AA.

(c) The AA may request a registration from a stationary source covered by this chapter prior to submittal of the RMP. Registration submitted prior to an RMP submittal shall include a certification of accuracy.

(d) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude, and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

§ 2740.1. Registration. (Continued)

(2) The stationary source Dun and Bradstreet number;

(3) Name and Dun and Bradstreet number of the corporate parent company;

(4) The name, telephone number, and mailing address of the owner or operator;

(5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;

(6) The name, title, telephone number, and 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;

(7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;

(8) The stationary source USEPA identifier;

(9) The number of full-time employees at the stationary source;

(10) Whether the stationary source is subject to Section 5189 of Title 8 of CCR;

(11) Whether the stationary source is subject to Part 355 of Title 40 of CFR;

(12) If the stationary source has a CAA Title V operating permit, the permit number;

(13) The date of the last safety inspection of the stationary source by a federal, state, or local government agency and the identity of the inspecting entity.

(14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);

(15) Source or Parent Company E-Mail Address (Optional);

(16) Source Homepage address (Optional);

(17) Phone number at the source for public inquires (Optional);

(18) Local Emergency Planning Committee (Optional);

(19) OSHA Voluntary Protection Program status (Optional); and,

(20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:

(A) Updates and re-submissions required under Section 2745.10(a) or (b);

§ 2740.1. Registration. (Continued)

(B) Corrections under Section 2745.10.5 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and resubmission as specified in Section 2745.10(a) or (b);

(C) De-registrations required under Section 2745.10(c) or (d); and,

(D) Withdrawals of an RMP for any facility that was erroneously considered subject to the CalARP Program.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25531, 25534.05(a)(1) and 25533(b), Health and Safety Code; and Section 68.160, Part 68, Title 40, Code of Federal Regulations.

§ 2740.2. (Reserved).

ARTICLE 3. RISK MANAGEMENT PLAN COMPONENTS AND SUBMISSION REQUIREMENTS

§ 2745.1. Submission.

(a) The owner or operator of a stationary source, which handles more than a threshold quantity of a regulated substance in a process, shall determine the applicability of this chapter as set forth in Section 2735.4(a) and shall submit a single RMP to the AA. The RMP shall include the information required by Sections 2745.3 through 2745.9.

(b) The RMP information required by USEPA shall be submitted to USEPA no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under Section 68.130, Part 68, Title 40 of CFR; or,

(3) The date on which a regulated substance is first present in a process, above the threshold quantity, as listed on Section 2770.5 Table 1 or 2.

(c) The owner or operator of a stationary source shall submit a copy of USEPA required RMP information according to the time frame set forth in (b) of this section to the AA.

(d) If a determination is made pursuant to section 2735.4 (a)(2) that an existing stationary source must comply with this chapter, the owner or operator shall submit an RMP to the AA after the owner or operator has received a notice from the AA requesting submission of an RMP. The AA shall, in consultation with the owner or operator of a stationary source, establish an RMP submittal date. The AA shall not require submission of the RMP earlier than 12 months or later than 3 years after the notice has been issued to the owner or operator.

(e) If a determination is made pursuant to section 2735.4(a)(2) that a new or modified stationary source must comply with this chapter, the owner or operator shall submit an RMP to the AA prior to the date in which a regulated substance is first present in a process above the listed threshold quantity.

§ 2745.1. Submission. (Continued)

(f) This chapter does not require the owner or operator to submit external event analysis or supplemental information, required by the AA, to USEPA unless that information is required by federal law.

(g) If a pesticide, as defined in Section 12753 of the Food and Agricultural Code, is used on a farm or nursery and is determined by the AA to pose a regulated substances accident risk; the AA shall first consult with the county agricultural commissioner or the Department of Food and Agriculture to evaluate whether the existing RMP is adequate in relation to the regulated substances accident risk. This paragraph does not prohibit, or limit the authority of an AA to conduct its duties.

(h) The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include information required by Section 2740.1(d)(6) and (d)(14), by June 21, 2004 in the manner specified by USEPA prior to that date. Any such submission shall also include the information required by Section 2740.1(d)(20) (indicating that the submission is a correction to include the information required by Section 2740.1(d)(6) and (d)(14) or an update under Section 2745.10). RMP revisions shall be consistent with Section 2735.5(a).

(i) RMPs submitted under this Section shall be updated and corrected in accordance with Section 2745.10 and Section 2745.10.5.

(j) Notwithstanding the provisions of Sections 2745.3 through 2745.9 the RMP shall exclude classified information. Subject to appropriate procedures to protect such information from public disclosure, classified data or information excluded from the RMP may be made available in a classified annex to the RMP for review by federal and state representatives who have received the appropriate security clearances required for the classified data or information being reviewed.

(k) Upon request, the AA shall submit to OES copies of the RMP and the federal registration.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25533, 25534, 25535.1 and 25536, Health and Safety Code; and Section 68.150, Part 68, Title 40, Code of Federal Regulations.

ARTICLE 3. RISK MANAGEMENT PLAN COMPONENTS AND SUBMISSION REQUIREMENTS

§ 2745.2. RMP Review Process.

(a) The RMP review process shall include:

(1) Consultation and review. The RMP shall be certified complete by a qualified person and the stationary source owner or operator and shall be submitted to the AA. Completeness shall be determined in accordance with Sections 2745.3 through 2745.9. The stationary source shall work closely with the AA to determine that the RMP contains an appropriate level of detail.

(2) Initial public notice. The AA shall publish notice in a local newspaper of general circulation that the RMP has been submitted and the AA has initiated the process for government and public review.

§ 2745.2. RMP Review Process. (Continued)

(3) Deficiency notice. The AA shall review the RMP to determine if all the elements pursuant to Sections 2745.3 through 2745.9 are contained in the document and provide a written notice to the owner or operator of a stationary source of any deficiencies. The AA may authorize the air pollution control district (APCD) or air quality management district (AQMD) to conduct a technical review of the RMP.

(A) The owner or operator of the stationary source shall have 60 calendar days from receipt of the notification of RMP deficiencies to make any corrections. An owner or operator of the stationary source may request, in writing, a one-time 30 calendar day extension to correct deficiencies. At the end of the 60 calendar days, and any extension period if applicable, the stationary source shall resubmit the corrected, revised RMP to the AA. Failure to correct deficiencies during the specified time frame shall subject the owner or operator of the stationary source to the penalties specified in Sections 25540 and 25541 of HSC.

(B) If no deficiencies are identified, the AA shall accept the RMP as complete and submit the RMP for formal public review.

(4) Formal public review. Within 15 calendar days after the AA determines that the RMP is complete, the AA shall make the RMP available to the public for review and comment by publishing a notice in a local newspaper of general circulation. The notice shall describe the RMP and state a location where it may be reviewed. The AA shall directly notify individuals and organizations who have specifically requested to be notified. The public shall have 45 calendar days to comment following the publication date of the notice. The AA shall review all public comments.

(5) Evaluation review. The evaluation review shall be conducted by the AA at the end of the formal public review period. The AA shall take the public comments into consideration during the evaluation review. The AA shall consider standard application of engineering and scientific principles, site specific characteristics, technical accuracy, severity of offsite consequences, and other information in the possession of or reviewed by the AA. The evaluation review may include inspections and onsite document review of records and data which may not be in the possession of the AA.

(6) The evaluation review shall be completed by the AA as follows:

(A) For an RMP which includes only Program 1 or Program 2 processes, the evaluation review shall be completed within 36 months.

(B) For an RMP which includes a Program 3 process, the evaluation review shall be completted within 24 months.

(C) The evaluation review does not include time for corrections of deficiencies pursuant to section (3)(A).

(7) Inspection or audit authority. Nothing in this section shall preclude the authority of an AA to inspect or audit a stationary source.

§ 2745.2. RMP Review Process. (Continued)

(8) Public access. The public shall have access to the RMP, including any electronic data developed as part of the USEPA reporting requirements. Classified information need not be included. Trade secrets are protected pursuant to Section 25538 of HSC.

Note: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25531.1, 25534.5, 25535, 25535.2 and 25538, Health and Safety Code.